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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2012-712

13 **MARY JEANETTE ANDERSON**
3615 S. Verde Vista Street
Visalia, CA 93277

ACCUSATION

14 Registered Nurse License No. 415549
Nurse Practitioner Certificate No. 8403
15 Nurse Practitioner Furnishing Certificate No. 8403
Public Health Nurse Certificate No. 49990
16

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
22 official capacity as the Interim Executive Officer of the Board of Registered Nursing ("Board"),
23 Department of Consumer Affairs.

24 **Registered Nurse License**

25 2. On or about August 31, 1987, the Board issued Registered Nurse License Number
26 415549 to Mary Jeanette Anderson ("Respondent"). The Registered Nurse License was in full
27 force and effect at all times relevant to the charges brought herein and will expire on June 30,
28 2013, unless renewed.

1 **Nurse Practitioner Certificate**

2 3. On or about July 17, 1996, the Board issued Nurse Practitioner Certificate Number
3 8403 to Respondent. The Nurse Practitioner Certificate was in full force and effect at all times
4 relevant to the charges brought herein and will expire on June 30, 2013, unless renewed.

5 **Nurse Practitioner Furnishing Certificate**

6 4. On or about June 4, 1997, the Board issued Nurse Practitioner Furnishing Certificate
7 Number 8403 to Respondent. The Nurse Practitioner Furnishing Certificate was in full force and
8 effect at all times relevant to the charges brought herein and will expire on June 30, 2013, unless
9 renewed.

10 **Public Health Nurse Certificate**

11 5. On or about April 23, 1993, the Board issued Public Health Nurse Certificate Number
12 49990 to Respondent. The Public Health Nurse Certificate was in full force and effect at all times
13 relevant to the charges brought herein and will expire on June 30, 2013, unless renewed.

14 **JURISDICTION**

15 6. This Accusation is brought before the Board under the authority of the following
16 laws. All section references are to the Business and Professions Code ("Code") unless otherwise
17 indicated.

18 7. Section 2750 of the Code provides, in pertinent part, that the Board may discipline
19 any licensee, including a licensee holding a temporary or an inactive license, for any reason
20 provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

21 8. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
22 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
23 licensee or to render a decision imposing discipline on the license. Section 2811(b) of the Code
24 provides, in pertinent part, that the Board may renew an expired license at any time within eight
25 years after the expiration.

26 9. Section 118, subdivision (b), of the Code provides that the suspension, expiration,
27 surrender, or cancellation of a license shall not deprive the Board or Director of jurisdiction to
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1 proceed with a disciplinary action during the period within which the license may be renewed,
2 restored, reissued or reinstated.

3 STATUTORY PROVISIONS

4 10. Section 2761 of the Code states:

5 The board may take disciplinary action against a certified or licensed nurse or
6 deny an application for a certificate or license for any of the following:

7 (a) Unprofessional conduct, which includes, but is not limited to, the following:

8 (f) Conviction of a felony or of any offense substantially related to the
9 qualifications, functions, and duties of a registered nurse, in which event the record of
10 the conviction shall be conclusive evidence thereof.

11 11. Section 2762 of the Code states, in pertinent part:

12 In addition to other acts constituting unprofessional conduct within the
13 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a
14 person licensed under this chapter to do any of the following:

15 (b) Use any controlled substance as defined in Division 10 (commencing with
16 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous
17 device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner
18 dangerous or injurious to himself or herself, any other person, or the public or to the
19 extent that such use impairs his or her ability to conduct with safety to the public the
20 practice authorized by his or her license.

21 (c) Be convicted of a criminal offense involving the prescription, consumption,
22 or self-administration of any of the substances described in subdivisions (a) and (b) of
23 this section, or the possession of, or falsification of a record pertaining to, the
24 substances described in subdivision (a) of this section, in which event the record of
25 the conviction is conclusive evidence thereof.

26 12. Section 490 of the Code states, in pertinent part:

27 (a) In addition to any other action that a board is permitted to take against a
28 licensee, a board may suspend or revoke a license on the ground that the licensee has
been convicted of a crime, if the crime is substantially related to the qualifications,
functions, or duties of the business or profession for which the license was issued.

(b) Notwithstanding any other provision of law, a board may exercise any
authority to discipline a licensee for conviction of a crime that is independent of the
authority granted under subdivision (a) only if the crime is substantially related to the
qualifications, functions, or duties of the business or profession for which the
licensee's license was issued.

(c) A conviction within the meaning of this section means a plea or verdict of
guilty or a conviction following a plea of nolo contendere. Any action that a board is
permitted to take following the establishment of a conviction may be taken when the
time for appeal has elapsed, or the judgment of conviction has been affirmed on
appeal, or when an order granting probation is made suspending the imposition of

1 sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of
2 the Penal Code.

3 **COST RECOVERY**

4 13. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
5 administrative law judge to direct a licensee found to have committed a violation or violations of
6 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
7 enforcement of the case.

8 **FIRST CAUSE FOR DISCIPLINE**

9 **(Conviction of Crime)**

10 14. Respondent is subject to disciplinary action under Code sections 2761, subdivision (a)
11 and (f), and 490, on the grounds of unprofessional conduct, in that on or about April 26, 2011, in
12 the case *People v. Mary Anderson aka Mary Jeanette Anderson*, Tulare County Superior Court,
13 Case No. TCM235296, Respondent was convicted on her plea of no contest to violating Vehicle
14 Code section 23103.5 [reckless driving involving alcohol/drugs], a misdemeanor. Said crime is
15 substantially related to the qualifications, duties, and functions of a registered nurse. The
16 circumstances are as follows:

17 a. On or about February 6, 2010, a California Highway Patrol ("CHP") officer
18 responded to a 911 call reporting that Respondent was driving her vehicle erratically southbound
19 on Highway 99 in Tulare County. Motorists had stopped Respondent from further driving on
20 Highway 99. The officer contacted Respondent and observed she was unsteady on her feet and
21 she was swaying in a circular motion three to four inches from natural center. At the CHP office,
22 Respondent submitted to a Drug Recognition Expert examination. Respondent admitted she had
23 taken the prescribed controlled substances Paxil, Zanaflex, and Oxycontin. Respondent was
24 arrested for being under the influence of depressants and narcotic analgesics and she was arrested
25 for violating Vehicle Code section 23152, subdivision (a). Respondent submitted to a blood test
26 that resulted in positive for Alprazolam and Oxycodone.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Conviction Involving Controlled Substances or Dangerous Drugs)**

3 15. Respondent is subject to disciplinary action under Code section 2762, subdivision (c),
4 on the grounds of unprofessional conduct, in that on or about April 26, 2011, in the case *People v.*
5 *Mary Anderson aka Mary Jeanette Anderson*, Tulare County Superior Court, Case No.
6 TCM235296, Respondent was convicted on her plea of no contest to violating Vehicle Code
7 section 23103.5 [reckless driving involving alcohol/drugs], a misdemeanor. Said crime involves
8 prescription, consumption, or self administration of controlled substances and/or dangerous drugs.
9 The underlying circumstances are set forth in paragraph 14, a, above, incorporated herein by this
10 reference.

11 **THIRD CAUSE FOR DISCIPLINE**

12 **(Used Controlled Substance of Dangerous Drug - Injurious to Self or Others)**

13 16. Respondent is subject to disciplinary action under Code sections 2762, subdivision
14 (b), on the grounds of unprofessional conduct, in that on or about February 6, 2010, Respondent
15 used controlled substances or dangerous drugs, that is, Alprazolam and Oxycodone, to an extent
16 and in a manner dangerous or injurious to herself, any other person, or the public or to the extent
17 that such use impaired her ability to conduct with safety to the public the practice of registered
18 nursing. The underlying circumstances for are set forth in paragraph 14, a, above, incorporated
19 herein by reference.

20 **MATTERS IN AGGRAVATION**


21 On or about February 14, 2010, Respondent was arrested for violation of Vehicle
22 Code section 23152, subdivision (a), [driving under the influence]. Respondent admitted to a
23 California Highway Patrol officer that she had taken Methadone and other prescription drugs, that
24 is, Zanaflex, Paxil, Lyrica, and Protonics prior to driving.

25 **PRAYER**

26 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,
27 and that following the hearing, the Board of Registered Nursing issue a decision:
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- 1 1. Revoking or suspending Registered Nurse License Number 415549, issued to Mary
2 Jeanette Anderson.
- 3 2. Revoking or suspending Nurse Practitioner Certificate Number 8403, issued to Mary
4 Jeanette Anderson;
- 5 3 Revoking or suspending Nurse Practitioner Furnishing Certificate Number 8403,
6 issued to Mary Jeanette Anderson;
- 7 4. Revoking or suspending Public Health Nurse Certificate No. 49990 issued to Mary
8 Jeannette Anderson;
- 9 5. Ordering Mary Jeanette Anderson to pay the Board of Registered Nursing the
10 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
11 Professions Code section 125.3; and
- 12 6. Taking such other and further action as deemed necessary and proper.

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14 DATED: May 25, 2012

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16 for LOUISE R. BAILEY, M.ED., RN
17 Interim Executive Officer
18 Board of Registered Nursing
19 Department of Consumer Affairs
20 State of California
21 Complainant
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